

COLLIN COUNTY, TEXAS

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JURISDICTION

5. Venue is proper in this Court by virtue of sections 15.001 et. seq. of the Texas Civil Practice & Remedies Code because the cause of action which is the basis of this case arose in whole or in part in this county, and/or Defendant's residence or principal office is in this county.

6. This Court has jurisdiction because Plaintiff's damages are within the jurisdictional limits of this Court. Pursuant to TEX R. CIV P. 47, the Plaintiff seeks monetary relief over **\$20,000,000**.¹

FACTUAL BACKGROUND

7. Hill who grew up in South Georgia in a town with a population of around 18,000 is a former medical student, a former associate pastor, who eventually earned a master's degree in business administration from Northwestern University's Kellogg School of Business. Hill worked his way through the telecom business eventually becoming the CEO of a major telecom company. In 2016, his elementary school recognized Hill into the Harper Elementary School Hall of Fame. Hill says he's accomplished more in his life by focusing on "prophets" than he has by focusing on "profits." Hill has always led by example and done things the right way.

8. Despite living and doing right by others, Hill has not always been treated right by others. On January 11, 2017, four (4) days before the Dallas Cowboys hosted the Green Bay Packers for their NFL Divisional Round Game, Hill was at the intersection of Dallas Parkway and Gaylord Parkway driving through a green light when a GMC Yukon

¹ Plaintiff reserves the right to amend, decrease and/or increase the amount of damages plead based on evidence developed before trial.

(upon information and belief owned by the Dallas Cowboys) driven by Elliott barreled through a red light and violently slammed into Hill's BMW 750 sedan.

9. The impact of the crash caused both airbags in the Yukon to deploy. It spun Hill's BMW, a large vehicle with a gross weight of over 4,700 pounds, 90 degrees. The crash resulted in the two vehicles being wedged together to the extent that a tow-truck was required to pull them apart. Neither vehicle could be driven from the scene of the crash. The crash caused over \$33,000 worth of property damage to Hill's vehicle, and the vehicle ended up being written off as a total loss.

10. While Hill was trying to compose himself and assess the situation Elliott who was late to practice had already notified Dallas Cowboy personnel who were on the scene and had already spoken with the police department before Hill even knew what was happening.

11. At the scene of the crash, Elliott admitted fault, and the Frisco Police also concluded that the crash was Elliott's fault. Elliott and running back's coach Gary Brown who was on the scene told Hill not to worry about anything, go get checked out and "we will take care of everything." If anyone had actually reported the impact of the accident and had Elliott been examined he would have most likely been placed in concussion protocol and out for the Dallas Cowboys upcoming playoff game. Upon information and belief, the Dallas Cowboys conspired with the Frisco Police Department to cover up the severity of the accident to assure that Elliott's health would not be placed in question before their playoff game.

12. As a result of the Defendants' negligence Hill has sustained serious and permanent personal injuries and damages.

CAUSES OF ACTION

NEGLIGENT ENTRUSTMENT OF A MOTOR VEHICLE (DALLAS COWBOYS)

13. Plaintiff incorporates each of the foregoing paragraphs by reference as if fully set forth herein verbatim.

14. The Dallas Cowboys entrusted its vehicle to Elliott.

15. Elliott is an incompetent and/or reckless driver.

16. The Dallas Cowboys knew or should have known Elliott was an incompetent and/or reckless driver.

17. Elliott was negligent on the occasion in question.

18. Elliott's negligence proximately caused Hill's injury.

NEGLIGENCE (ELLIOTT)

19. Plaintiff incorporates each of the foregoing paragraphs by reference as if fully set forth herein verbatim.

20. Elliott owed a legal duty to Hill.

21. Elliott breached the duty.

22. Elliott was negligent in one or more of the following particulars: 1) In failing to keep such a lookout as a person of ordinary prudence would have kept under the same or similar circumstances; 2) In failing to timely apply the brakes of his vehicle in order to avoid the occurrence in question; 3) In driving his vehicle at a rate of speed that an ordinary and prudent person would not have driven under the same or similar circumstances; 4) In failing to maintain his vehicle under proper control; 5) In failing to take proper evasive action; 6) In failing to keep in a proper lane; 7) In failing to maintain a safe distance between his vehicle and surrounding vehicles; 8) In failing to apply his brakes to avoid the collision in question; 9) In paying insufficient attention while driving;

10) In disregarding a red light traffic signal; and, 11) In engaging in other acts of negligence.

23. Elliott's breaches of duties proximately caused Hill's injuries.

NEGLIGENCE PER SE (ELLIOTT)

24. Plaintiff incorporates each of the foregoing paragraphs by reference as if fully set forth herein verbatim.

25. Hill belongs to the class of persons the statute was designed to protect, and his injury is of the type the statute was designed to prevent.

26. The statute is one for which tort liability may be imposed when violated

27. Elliott violated the statute without excuse.

28. Elliott's was negligent per se in violating the applicable traffic codes of the State of Texas. Among other statutory provisions violated by Elliott were the following: 1) Transp. Code Section 542.206 - Duty to Drive Within Statutory Speed Limit; 2) Transp. Code Section 545.060(a) - Duty of Driver Not to Move From Lane Until Driver Has Ascertained That Movement Can be Made Safely; 3) Transp. Code Section 545.062(a) - Duty to Maintain a Safe Distance Between Vehicles; 4) Transp. Code Section 545.351 - Duty to Operate Motor Vehicle at Speed That is Reasonable and Prudent Under Circumstances and With Regard to Actual and Potential Hazards Then Existing and At Speed Necessary to Avoid Colliding With Any Person, Vehicle, or Other Conveyance on Highway; and, 5) Transp. Code Section 544.007 - Duty of a Driver Facing a Steady Red Traffic Signal to Stop and Not Enter an Intersection Until an Indication to Proceed is Displayed.

29. Elliott's act or omission proximately caused Hill's injury.

NEGLIGENCE -PROXIMATE CAUSATION (ELLIOTT)

30. Plaintiff incorporates each of the foregoing paragraphs by reference as if fully set forth herein verbatim.

31. Each of the foregoing acts or omissions, singularly or in combination with others, constituted negligence, which proximately caused the above-referenced occurrence and Plaintiff's injuries and damages.

PERSONAL INJURIES AND DAMAGES (ELLIOTT AND THE DALLAS COWBOYS)

32. Plaintiff incorporates each of the foregoing paragraphs by reference as if fully set forth herein verbatim.

33. As a result of Defendants actions, Plaintiff has suffered bodily, economic, and mental injuries. Consequently, Plaintiff seeks the following damages: 1) **Medical Expenses:** Plaintiff has incurred bodily injuries which were caused by the incident in question. Plaintiff has incurred medical expenses in the past and will continue to incur them in the future; 2) **Physical Pain:** Plaintiff has endured physical pain in the past and will endure pain in the future; 3) **Mental Anguish:** Plaintiff has endured mental anguish in the past and will endure mental anguish in the future; 4) **Loss of Earning Capacity:** Plaintiff has suffered a loss of earnings in the past, and will continue to suffer a loss of earning capacity in the future; 5) **Physical Impairment:** Plaintiff has endured physical impairment in the past, and will continue to suffer the effects in the future; 6) **Disfigurement:** In the event that Plaintiff is required to undergo surgery, he will sustain disfigurement as a result of the Defendant's negligence and will continue to suffer from this disfigurement in the future; 7) **Loss of Consortium:** Plaintiff has sustained loss of consortium in the past, and will continue to suffer the effects in the future; 8) **Loss of Services;** and, 9) In all reasonable probability, Plaintiff will continue to suffer from these

injuries for the rest of Plaintiff's life, and Plaintiff seeks compensation for such future damages.

EXEMPLARY DAMAGES (ELLIOTT AND THE DALLAS COWBOYS)

34. Plaintiff re-alleges each and every paragraph as though they are set forth fully herein.

35. The acts of Defendants complained of herein were committed knowingly, willfully, intentionally, with actual awareness, or with actual malice. In order to punish Defendants for such unconscionable overreaching and to deter such actions and/or omissions in the future, Plaintiff seeks recovery from Defendants of exemplary damages as provided by the law.

36. In addition to the above described breaches and misrepresentations, Defendants conduct constitutes an unconscionable action and course of action, all of which was done knowingly. Furthermore, Defendants have taken advantage of the lack of expertise of the Plaintiff to a grossly unfair degree. Such actions, referenced above were done maliciously and recklessly and Plaintiff is entitled to all damages including statutory, treble, punitive, and exemplary damages as provided by the law.

NO WAIVER

37. By filing this lawsuit, Plaintiff does not waive or release any rights, claims, causes of action, or defenses or make any election of remedies that he has, but expressly reserve such rights, claims, causes of action and defenses.

CONDITIONS PRECEDENT

38. All conditions precedent to the Plaintiff's right to recovery has been performed, have occurred, and/or have been waived.

REQUEST FOR DISCLOSURE

39. Pursuant to Rule 194 of the TEXAS RULES OF CIVIL PROCEDURE, the Defendants are hereby requested to disclose the information or material described in Rule 194.2. This is a continuing duty and requires supplementation in accordance with the TEXAS RULES OF CIVIL PROCEDURE.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the Defendants be cited to appear and answer, and that on final trial, the Court award the Plaintiff a judgment against the Defendants as follows:

- (1) Judgment against the Defendants for economic damages in an amount within the jurisdictional limits of the Court;
- (2) That judgment be entered for Plaintiff and against the Defendants for Negligent Entrustment of A Motor Vehicle, Negligence, Negligence Per Se, Negligence -Proximate Causation, Personal Injuries and Damages;
- (3) That Plaintiff be awarded actual, consequential, and exemplary damages as a consequence of the Defendants conduct in an amount **not less than \$20,000,000;**
- (4) That Plaintiff be awarded his attorneys' fees incurred in the trial of this matter as well as all pre/post judgment interest and contingent interest for all possible appeals pursuant to a cause of action for attorneys' fees herein; and,
- (5) That all costs of court be assessed against the Defendants; and, that the Court grant such other, further, and different relief as the court deems proper under the circumstances.

Respectfully submitted,



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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served upon all counsel of record on this the **30th day of July 2019**, in accordance with the TEXAS RULES OF CIVIL PROCEDURE.



LAWRENCE J. FRIEDMAN